

1 BARRY J. PORTMAN
VARELL L. FULLER
2 Assistant Federal Public Defender
160 West Santa Clara Street, Suite 575
3 San Jose, CA 95113
Telephone: (408) 291-7753
4 Counsel for Defendant CRUZ-BOTELLO
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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 UNITED STATES OF AMERICA,) No. CR 10-00625-JF
11)
Plaintiff,) STIPULATION AND ~~PROPOSED~~
12) ORDER ADVANCING THE SENTENCING
vs.) HEARING DATE
13)
JUAN CARLOS CRUZ BOTELLO,)
14)
Defendants.)
15 _____)

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17 **STIPULATION**

18 The parties, by and through their respective counsel, hereby stipulate and jointly request
19 that the sentencing hearing date currently set in this matter for Thursday, October 20, 2011, at
20 9:00 a.m., be advanced to Thursday, September 22, 2011, at 9:00 a.m.

21 On June 16, 2011, Mr. Cruz-Botello entered a change of plea pursuant to a Fed. R. Crim.
22 P. 11(c)(1)(C) agreement providing for a sentence of 60 months, and the matter was referred to
23 United States Probation to prepare a Presentence Report to determine, inter alia, Mr. Cruz-
24 Botello's safety-valve eligibility. The current October 20, 2011, sentencing date will require this
25 matter to be reassigned to another Judge of this Court due to the Honorable Jeremy Fogel's
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1 departure. The parties seek to advance that sentencing hearing, in the interest of efficiency and
2 judicial economy, and to permit the Honorable Jeremy Fogel, who is familiar with the procedural
3 history and issues relevant to sentencing to resolve this matter prior to his Honor's departure.

4 The parties have consulted with United States Probation Officer Karen Mar, who is
5 assigned to prepare the presentence report in this matter. Officer Mar has advised that she has no
6 objection to advancing the sentencing hearing date to September 22, 2011, provided that the
7 parties agree to waive the draft report. The parties therefore further stipulate and agree to waive
8 the draft presentence report and will submit any objections to the presentence report by way of
9 memorandum at sentencing.

10 Accordingly, the parties respectfully request that the Court advance the defendant's
11 sentencing hearing date from October 20, 2011, at 9:00 a.m. to September 22, 2011, at 9:00 a.m.

12 IT IS SO STIPULATED

13 Dated: August 11, 2011

14 /s/
ALLISON MARSTON DANNER
Assistant United States Attorney

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17 Dated: August 11, 2011

18 /s/
VARELL L. FULLER
Assistant Federal Public Defender

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22 **[PROPOSED] ORDER**

23 GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY
24 ORDERED that the sentencing hearing set for Thursday, October 20, 2011, is advanced to
25 Thursday, September 22, 2011, at 9:00 a.m.
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1 IT IS FURTHER ORDERED, that the date by which United States Probation must
2 disclose the draft presentence report in this matter is hereby waived.

3 IT IS SO ORDERED.

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5 Dated: 8/18/11

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7 THE HONORABLE JEREMY FOGEL
8 United States District Court
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